

STATE OF MICHIGAN
COURT OF APPEALS

YOUNG YIM MYUNG,

Plaintiff-Appellant,

v

RAGOSA INVESTMENT COMPANY, INC.,

Defendant-Appellee.

UNPUBLISHED

July 22, 1997

No. 190788

Wayne Circuit Court

LC No. 95-514833-CH

Before: Doctoroff, P.J., and MacKenzie and Griffin, JJ.

PER CURIAM.

Plaintiff appeals as of right a trial court order granting summary disposition in favor of defendant pursuant to MCR 2.116(C)(10). We affirm.

This action arose after the state sold a parcel of real property belonging to plaintiff's husband for failure to pay back taxes. Defendant bought the property at the tax sale and received an unencumbered title because neither plaintiff nor her husband redeemed the property. Plaintiff, who is not a widow, subsequently filed the instant action, claiming that defendant's tax title remained subject to her dower interest because she did not receive personal notice of her right to redeem the property. The trial court granted summary disposition in favor of defendant on the basis that plaintiff had no right to receive notice and that her guarantee of due process was not violated. We affirm.

It is not disputed that the record owner and the "occupant" of the property were notified of the tax sale. Further, defendant notified plaintiff's husband and the "occupant" of their right to redeem. Plaintiff's husband never responded, and a default was entered against him. Defendant's judicial deed to the property was certified by the circuit court and registered with the Wayne County Register of Deeds. A copy of the deed was mailed to plaintiff's husband on February 27, 1995.

Subsequently, plaintiff filed the instant lawsuit, claiming that defendant's tax title did not extinguish plaintiff's dower interest in the property because she never received notice of her redemption right. The trial court granted summary disposition in favor of defendant on the basis that plaintiff had no right to receive personal notice of the impending sale.

On appeal, plaintiff contends that a valid tax title may eliminate inchoate dower rights only if the holder of such rights is personally notified of her right to redeem. We disagree.

We review the trial court's ruling on a motion for summary disposition pursuant to MCR 2.116(C)(10) de novo to determine whether the pleadings or the uncontroverted documentary evidence establish that defendant is entitled to judgment as a matter of law. MCR 2.116(I)(1); *Kennedy v Auto Club of Michigan*, 215 Mich App 264, 266; 544 NW2d 750 (1996).

"It is well-settled in Michigan that, where land is sold at a tax sale and bid in by the state, the failure of the owner to redeem within the prescribed time limits results in vesting an absolute fee title in the state." *Dean v Department of Natural Resources*, 61 Mich App 669, 675; 233 NW2d 135 (1975), rev'd on other grounds, 399 Mich 84 (1976). A valid tax sale extinguishes all liens and encumbrances against the land, including homestead and dower rights. *Robbins v Barron*, 32 Mich 36, 39 (1875). A tax sale is valid only if the statutory notice requirements in MCL 211.140; MSA 7.198 are satisfied.

MCL 211.140; MSA 7.198 provides that the following persons must be served with notice of a tax sale:

- (a) The last grantee or grantees in the regular chain of title of the property, or of an interest in the property, according to the records of the county register of deeds.
- (b) The person or persons in actual open possession of the land.
- (c) The grantee or grantees under the tax deed issued by the state treasurer for the latest year's taxes according to the records of the county register of deeds.
- (d) The mortgagee or mortgagees named in all undischarged recorded mortgages, or assignees of record.
- (e) The holder of record of all undischarged recorded liens.

Thus, the Legislature requires that notification be given to occupants and people with actual recorded interests in the property. Our Legislature did not require that notice be given to people with inchoate dower rights. Nor have we located any relevant authority requiring that holders of inchoate dower rights be notified of their redemption rights. Accordingly, because defendant fulfilled the clear, unambiguous statutory notice requirements by notifying the present possessor and record owner of the property, the tax sale was valid.

Additionally, we hold that MCL 211.140; MSA 7.198 does not deprive plaintiff of her constitutional right of due process. In *Dow v Michigan*, 396 Mich 192; 240 NW2d 450 (1976), our Supreme Court held that persons owning *significant* interests in property must receive notice and be given an opportunity to contest a tax sale. However, assuming arguendo that the notice her husband received was not reasonably calculated to apprise plaintiff of the tax sale, see *id.* at

206, plaintiff cites to no authority establishing that her inchoate dower right is a significant property interest as defined by the Court in *Dow*.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Barbara B. MacKenzie

/s/ Richard Allen Griffin